Original to ~~Andhra~~ Mysore Govt
K. V. Narayanaswami
Superintendent

Sectt. II-27—65,006 31-10 50.

W. (1953) Department.

Ms. SERIES.

G.O. NO. 2572

Dated 15-6-1953

Passed
Kwn
Supdt
22/6/53

FOR MYSORE STATE

[Despatch Abstract.]

Suits — Tools and Plant — Motor Vehicles — Lorry M.D.B. No. 130 requisitioned for Defence works — Payment of Compensation — Claim of Sri. Murari Venkataswami of Hospet — Defence of suit — Sanctioned

REVENUE DEPARTMENT
Subject:

Suits (Bellary) - O.S.No.49/53 of the Sub Court, Bellary - Motor vehicles - lorry M.D.B.No.130 - Payment of compensation - Claim of Sri Murari Venkata of Hospet - Defence of suit - Sanction - Requested.

Station: Madras Ref.W.3506/53-1 Dated 25-5-1953.

From:

Sri W.R.S.Sattianathan, I.C.S., Commissioner of Land Revenue.

Sri A.R.Rajaratnam, I.A.S., Joint Secretary, Board of Revenue.

Read:- G.O.Ms.No.129 (P.W.D.) dated 10-1-1951
Government Memorandum No.2054 Q/51-10 dated 8-9-1951.
Board's L.Dis.W.9931/51 dated 22-11-1951
From the Collector of Bellary R.C.No.7193/53-A1 dated 11-5-1953.

REFERENCE:

Submitted to the Government.

2. The Board requests that the defence of the suit may be sanctione and the draft written statement submitted by the Collector with his lette read above approved.

For Joint Secretary.

To
The Secretary to Government, Public Works Department, with records* as per li
Copy to the Collector of Bellary.

*(1) Copy of plaint (2) Copy of Draft written statement
(3) D.Dis.1523/46 (4) D.Dis.168/51 and (5) D.Dis.1249/51.

COPY OF letter Rc.No.7193/53 A1 dated 11-5-1953 from the Collector of Bella

Sub:-Suits - O.S.No.49/53 of the Sub Court Bellary - Plaintiff Sri Murai Venkataswami of Hospet - Defence of suit - Sanction - Requested.

Sri Murari Venkataswamy a merchant of Hospet, Bellary district has filed a suit against the Government for the recovery of an amount of Rs.427(towards compensation for the damages caused to his lorry M.D.B.130 requisiti under the Defence of India Rules in 1944.

2. The plaintiff issued a notice under 80 C.P.C. on 23-4-1951. Afte obtaining the opinion of the Government Pleader on the maintainability of th suit a detailed report was submitted to the Board of Revenue in this office Rc.1249/51 dated 30-5-51. The Board appears to have addressed the Governm in their matter in its Ref.W,4929/51-1 dated 11-7-1951 and the Government in their Memo. No.2054 Q/51-10 dated 8-9-1951 accepted the recommendations of t Board that the threatened suit may be awaited. Accordingly an endorsement w issued to the party on 25-9-1951. Being dissatisfied with the orders passed the suit notice, the merchant (plaintiff) has filed a suit against the Gove

3. The suit stands posted to 1-7-1953 for filing the written stateme on behalf of the Government. The Government Pleader, Bellary after perusing all the connected records, has sent a draft written statement to be fi on behalf of the defendant. A copy of the draft written statement, copy of plaint and this office files bearing (1) D.Dis.1523/46 Magl. dated 15-5 (2) D.Dis.168/51 Magl. dated 16-1-1951 and (3) D.Dis.1249/51 dated 2-10-1951 which deal with the subject matter of the suit are herewith submitted. I req

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that the Board may be pleased to sanction the defence of the suit and return the approved draft written statement and the connected files early so that the statement may be filed in the Court on 1-7-1953, the date to which the suit stands posted.

4. The particulars required under B.S.O. 93-3 are furnished below:-

(i) Date of plaint. 20-4-1953.

(ii) Date of service on the Collector. 24-4-1953.

(iii) Date of hearing. 1-7-1953.

(iv) Explanation for the delay where a clear fortnight is not allowed to the Board for considering the case.

Encl: (1) Copy of plaint (2) copy of Draft written statement (3) D.Dis.1523/46 (4) D.Dis.168/51 (5) D.Dis.1249/51.

(TRUE COPY)

IN THE COURT OF THE SUBORDINATE JUDGE OF BELLARY.

O.S.49/53.

Between:

Marai Venkataswamy. .. Plaintiff.

VS

The State of Madras. .. Defendant.

Written statement filed under Or.8 Rule I.C.P.C.

1. The suit is not maintainable in law on merits.

2. The Plaintiff is put to strict proof of all the allegations which are not expressly admitted herein by the defendant.

3. The allegations in para 5 of the plaint that the lorry was in a highly damaged condition and not fit for use as a vehicle is not correct, being highly exaggerated to suit the ends of the Plaintiff. Even at the time of requisition, the vehicle was in disrepair and being totally unfit for immediate use, the necessary repairs and replacements were effected at a cost of Rs.1892/- at Bellary and the vehicle was sent to Arkonam on 21-10-1942. There was no written agreement entered into with the plaintiff. The prescribed hire charges were paid to the owner and the unkeep and repairs were attended to at the cost of the defendant.

4. The plaintiff did not prefer, any claim, any compensation before he took delivery of the vehicle on 5-6-1944, nor did he intimate that he intended to repair and claim compensation thereafter. He did not furnish any estimate for repairs or for spare parts, within a reasonable time for obtaining necessary sanction. He has slept over the matter for more than one year and has now come forward with his highly exaggerated belated and untenable claim.

5. The contention of the plaintiff that he is entitled to the compensation and in case of difference with the appointment of arbitration is not at all tenable.

6. The allegation in para 6 of the plaint are not fully correct.

7. The Government never considered to pay the compensation demanded by the plaintiff as the plaintiff has omitted to state the year in which he bought and the amount. At best the costs of the vehicle at the time of requisition nearly valued at Rs.3650/- and at the time of release it was Rs.1750/-. The owner would have got Rs.1750/- for the vehicle at the time of requisition, as per conditions of P.W.D. The plaintiff, when he took charge of the vehicle, had three new types for his old rotten tyres at the time of requisition. As already been stated, all expenditure towards proper maintenance was met by the Government.

8. The bills for repairs produced by plaintiff cannot now be accepted as they are not capable of being checked and verified at this distance of time. Some of the Bills do not bear any indication that they were given pertaining to this vehicle. The Plaintiff has not stated whether he made use of the lorry after release. No reasons have been stated for the inordinate delay in carrying out repairs and his claim.

9. His claim of new battery is not tenable as the vehicle with the old battery was tendered. The Inspector gave his opinion that the condition of the lorry was poor and the lorry was not in a running condition. The Plaintiff ought to have claimed the full value of the lorry. But he has only claimed repair charges which outweighs the very costs of the lorry.

10. The appointment of an arbitrator does not arise.

11. The Plaintiff is estopped from claiming any compensation.

12. The suit is clearly barred by period of limitation.

13. The suit is highly speculative, vexatious and harassing.

14. The cause of action as stated by the plaintiff is not correct.

15. The defendant is prepared to pay the plaintiff Rs.150/- towards transport charges as already been stated.

16. The defendant is not entitled much less interest also. The suit is false and vexatious to the knowledge of the Plaintiff and has to be dismissed with costs.

(TRUE COPY)

For Joint Secretary.

d.1.25.5.

To Issue at m ce

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P.W.(A2)

Sub:- SUITS - Tools and Plant - Motor Vehicles - Lorry M.D.B.No.130 requisitioned for Defence Works - Payment of compensation - Claim of Sri Murari Venkataswami of Hospet - Defence of suit - Sanctioned.

Ref:- From the Bd. of Rev. No.W.3506/53-1 d/25-5-53.

G.O.Ms.No. 2572 d/ 15/6/53

The Government sanction the defence of the State of Madras (Defendant) in O.S.No.49 of 1953 on the file of the Subordinate Judge, Bellary.

2. The Government Pleader, Bellary is requested to appear on behalf of the State of Madras in the Civil suit mentioned above.

3. The draft written statement (copy enclosed with the Board's reference cited) is approved subject to certain verbal alterations. A copy of the written statement as approved is appended to this order.

4. The T.C.Madras, the C.E.P.W.D.(General) and the Collector of Bellary are requested to forward all the relevant records on the subject to the Government Pleader, Bellary and to render such assistance as may be called for by the Government Pleader, Bellary in the matter.

5. The records received with the Board's reference cited are returned.

To
The Board of Reve.
(with encls.)
The Collr. of Bellary.
The Transport Commr.Madras.
The C.E.P.W.D. (General)
The A.G.thro'Fin.
The Home Dept.
The G.P. Bellary
Copy of Plaint
Collector's D.Dis. 1523/46

APPENDIX
pp 3-5 n pp

7

Vide Paper II in pp2-3 CF

APPENDIX.

IN THE COURT OF THE SUBORDINATE JUDGE OF BELLARY.

O.S.49/53.

Between:

Murai Venkataswamy. .. Plaintiff

VS

The State of Madras .. Defendant.

Written statement filed under Or.8 Rule I.C.P.C.

1. The suit is not maintainable in law on merits.

2. The Plaintiff is put to strict proof of all the allegations which are not expressly admitted herein by the defendant.

3. The allegations in para 5 of the plaint that the lorry was in a highly damaged condition and not fit for use as a vehicle are not correct, being highly exaggerated to suit the ends of the Plaintiff. Even at the time of requisition, the vehicle was in disrepair and being totally unfit for immediate use, the necessary repairs and replacements were effected at a cost of Rs.1892/- at Bellary and the vehicle was sent to Arkonam on 21-10-42. There was no written agreement entered into with the plaintiff. The prescribed hire charges were paid to the owner and the upkeep and repairs were attended to at the cost of the defendant.

4. The plaintiff did not prefer, any claim for compensation before he took delivery of the vehicle on 5-6-1944, nor did he intimate that he intended to repair and claim compensation thereafter. He did not furnish any estimate for repairs or for spare parts, within a

p.t.

reasonable time for obtaining necessary sanction. He has slept over the matter for more than one year and has now come forward with his highly exaggerated belated and untenable claim.

5. The contention of the plaintiff that he is entitled to the compensation and in case of difference to the appointment of arbitrator is not at all tenable.

6. The allegation in para 6 of the plaint are not fully correct.

7. The Government never considered paying the compensation demanded by the plaintiff as the plaintiff has omitted to state the year in which he bought the lorry and the price. At best the cost of the vehicle at the time of requisition nearly valued at Rs.3650/- and at the time of release it was Rs.1750/-. The owner would have got Rs.1750/- for the vehicle at the time of release, as per conditions of the P.W.D. The plaintiff, when he took charge of the vehicle, had three new tyres in place of the old rotten tyres at the time of requisition. As already stated, all expenditure towards proper maintenance was met by the Government.

8. The bills for repairs produced by plaintiff cannot now be accepted as they are not capable of being checked and verified at this distance of time. Some of the Bills do not bear any indication that they were given pertaining to this vehicle. The Plaintiff has not stated whether he made use of the lorry after release. No reasons have been stated for the inordinate delay in carrying out repairs and his claim.

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9. His claim for a new battery is not tenable as the vehicle with the old battery was tendered. The Inspector gave his opinion that the condition of the lorry was poor and the lorry was not in a running condition. The Plaintiff at most could have claimed the full value of the lorry. But he has claimed repair charges which are far in excess of the very cost of the lorry.

10. The appointment of an arbitrator does not arise.

11. The Plaintiff is estopped from claiming any compensation.

12. The suit is clearly barred by limitation.

13. The suit is highly speculative, vexatious and harassing.

14. The cause of action as stated by the plaintiff is not correct.

15. The defendant is prepared to pay the plaintiff Rs.150/- towards transport charges as already stated.

16. The ~~defendant~~ Plaintiff is not entitled to any other sum much less, to interest. The suit is false and vexatious ~~to the knowledge of the Plaintiff~~ and has to be dismissed with costs under section 35 A of the C.P.C.

ADDL. ASST. SECRETARY TO GOVERNMENT
30 JUL 1953
PUBLIC WORKS DEPARTMENT

Sri P.C. Mathew, I.C.S.

Transport Commissioner,

Egmore, Madras

69502

Government Pleader,
Bellary. (with encl. by Regd Post.)

ASSISTANT SECRETARY TO GOVERNMENT
28 JUL 1953
HOME DEPARTMENT

Letter 33274/53/C4 24-7-53.

Sub: Suits -Tools and plants -Motor vehicles lorry MDB No.130 requisitioned for Defence works payment of compensation of Sri Murari Venkataswami of Hospet Defence suit -Santioned

p5 of (K) Ref; G.O.Ms.No.2572 Public Works department dated 15-6-1953.

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p5 of (K)

With reference to para 4(4) of the G.O. cited I send herewith the relevant file of this Office bearing No. D.Dis.24967/46 containing 327 pages of current file and 24 pages note file. Its receipt may please be acknowledged and the same returned when no longer required.

155141
29.7.53

For Transport Commissioner.

Copy to the Secretary to Government,
P.W.D.
Copy to the Secretary, to Government,
Home Department.
Copy to the Chief Engineer,
P.W.D. (General)
Copy to the Collector,
Bellary.

Home (Tr.II) A

Missent. P.W.D. U.O.
29.7.53
30.7.1953

29-7-53

s.a. 25.7.

Home U.O.
155141/Tr.II/53-1
30.7.53

C.No 49629 A/53

p1cf

Sub:- SUITS - O.S.No.49/53 of Sub-Court, Bellary - Motor Vehicles - Lorry M.D.B.No.130 - Payment of compensation - Claim of Sri Murarai Venkataswami of Hospet - Defence of suit - Sanction.

Ref:- From the Bd. of Rev. No.W.3506/53-1 d/25-5-53.

The reference from the Board of Revenue on p.1. c.f. may be perused.

2. The motor lorry M.D.B.No.130 belonging to Sri Murari Venkataswamy, a merchant of Hospet, was requisitioned by the Collector of Bellary in his order d/9-6-42 under 75 (A) (I) Defence of India Rules for use in the Aerodrome construction works. The vehicle was actually taken charge from the owner only on 2-7-42 and it was returned to him on 5-6-44. A reference in this connection is invited to the letter d/23-9-49 of the P.M. T.C. (now T.C.) at pages 63-65 c.f. of G.O.Ms.No.129, P.W. d/10-1-51, which sets out the case in detail. It will be seen therefrom that the owner claimed Rs.3,629-3-9 for carrying out repairs to the vehicle and Rs.150/- for transport charges and that the P.M.T.C. only recommended the payment of transit charges as he considered that the claim for repair charges was not admissible. The C.E. P.W.D.(General) also agreed with P.M.T.C.

In July 1946, the owner through his advocate preferred his claim for repairs and transport chages first to the Collector of Bellary, and later in April 1948 to the Govt. of India. The Govt. of India referred the matter to this Govt. After carefully examining the case, this Govt. held the view that the owner was entitled only to a sum of Rs.150/-

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being the transport charges for his lorry from Tambaram to Hospet and that his other claims for repair charges were inadmissible according to the rules. The request of the owner for appointment of an arbitrator was also rejected - vide G.O.No.129 P.W. d/10-1-51.

Subsequently in April,1951 the owner through his advocate issued a notice in this regard under section 80 C.P.C. The Bd. of Rev. then recommended that thethreatened suit might be awaited. The Govt. accepted the Board's recommendation. The Govt. of India were also informed that this Govt. were advised that, the owner was not entitled to the payment of any compensation in respect of the damage caused to the lorry, that the claim made by him for reimbursement of the repair charges incurred by him was not maintainable and that instructions were accordingly being issued to the effect that the threatened suit might be awaited. They were also informed that this Govt. would make necessary arrangements for the defence of the suit if it was filed.

3. Sri Murari Venkataswamy, the owner of the lorry under reference, has now filed a suit in the sub-court, Bellary against the Govt. for the recovery of an amount of Rs.427-9-0 towards compensation for the damages caused to his lorry requisitioned under the Defence of India Rules. The suit stands posted to 1-7-1953 for filing the written statement on behalf of the Govt. The Collector of Bellary has submitted to the Board of Rev. a copy of the draft written statement preapred by the Govt. Pleader, Bellary for approval.

p.t.o

para 3 p1 of (F) (B) & (E) " p2 of

He has also forwarded to the Board the connected files of his office for reference and return. He has requested that the defence of the suit may be sanctioned and that the draft written statement may be approved and returned to him together with his office files so as to enable him to file the statement in court on 1-7-52.

p1 of.

The Board has requested that the defence of the suit may be sanctioned and that the draft written statement may be approved.

4. A reference is invited to the copy of the ~~plan~~ plaint at (P). As this Govt. have already held the view that the claim of Sri Murari Venkataswami is inadmissible the defence of the suit may be sanctioned and the draft written statement approved. It may be mentioned here that the Collector of Bellary ~~has~~ previously reported that the Motor Vehicles Inspector who inspected the vehicle on 5-6-44 ~~had~~ only reported that the vehicle was in very poor condition and that he did not mention whether the damages were in excess of fair wear and tear. The draft written statement is in accordance with the decision ~~int~~ taken by this Govt.-vide pp.140-141 c.f. (R) and also the note of Legal at p.11.n.f. pf (R).

pp107-108 cf (R)

A

4 p9 cf (R)

pp107-10

The P.M.T.C., the C.E.P.W.D.(General), and the Collector of Bellary may be requested to send relevant records to the Govt. Pleader, Bellary and to render such assistance as may be required by him.

5. Home, Legal (Opinion) and Finance may ~~see for remarks~~.

P.T.O

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Exp B

See for remarks. Legal may also scrutinise the draft written statement.

4.6.53

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Kun

5.6.53

Home / Legal / Fin

Home (Tr. I) Deptt.

P.W.D. V.O.N. 49629 A/53-1 5.6.53

Public works Deptt's note on pp. 1-4 above may be perused and the file passed on to Legal.

6.6.1953

6-53.

A S IV / Legal

6/6/53

ASSISTANT SECRETARY TO GOVT. 5 - JUN 1953 HOME DEPARTMENT

119682 5/6/53

Numero 119682/Tr I/1 6/6/53.

Legal (Opinions-B) Department

The verbal alterations indicated in pencil on the draft written statement may be made.

6.6.53.

6.6

J.S.

ASSISTANT SECRETARY 9386 6 - JUN 1953 1.10 PM LEGAL DEPARTMENT

Finance

Finance Legal vo no. 9386/ 6.6.53

Fin (Exp. B).

The proposal of P.W. may be accepted in Finance.

6/6/53

ADDITIONAL DEPUTY SECRETARY TO GOVT. 6 - JUN 1953 46476 FINANCE DEPARTMENT

P.W.

Fin no 46476

52490 6.6.53 6.P.M.

Cn. 496292/53

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P.W. (A2)

The notes of Home, Legal and Finance on p4 ante may be perused. Legal have scrutinised the draft written statement on pp 2-3 c.f. and have indicated in pencil certain verbal alterations to it. These may be accepted. Finance have agreed to the sanction of the defence of the suit.

B on p 4 ante

Subject to approval a draft order is submitted. A copy of the draft written statement incorporating the alterations indicated by Legal may be appended to the order.

8.6.53

Kuw 8.6.53

9653

Kuw

V. Venkatapuram 9.6.53

M(P.W) N. Ramana Reddi 13.6.53

Cn (5) 10/6.

DEPUTY SECRETARY TO GOVERNMENT
15 JUN 1953
PUBLIC WORKS DEPARTMENT

p5 c.f. (Issued as G.O. Ms. No. 2572 dated 15.6.53)

Jon above
1/7/6